

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in view of the present amendment and in light of the following discussion, is respectfully requested.

Claims 20-30, 32, 33, and 35-40 are pending in the present application. Claims 24, 26, and 29 were withdrawn by the outstanding Office Action. In the present amendment, Claims 20, 21, 30, 32, 33, 35, and 36 are currently amended, Claims 31 and 34 are canceled without prejudice or disclaimer, and new Claims 39 and 40 are added. Support for the present amendment can be found in the original specification, for example, at page 8, lines 13-17, at page 13, lines 6-34, at page 15, lines 23-30, in Figure 10, and in original Claims 20, 31, and 34. Thus, it is respectfully submitted that no new matter is added.

In the outstanding Office Action, Claim 23 was rejected under 35 U.S.C. § 112, second paragraph; Claims 20-23, 25, 27, 28, 30, and 32 were rejected under 35 U.S.C. § 102(b) as anticipated by Scott (U.S. Patent No. 2,172,091); Claim 31 was rejected under 35 U.S.C. § 103(a) as unpatentable over Scott in view of Royce et al. (U.S. Patent No. 4,233,780, hereinafter “Royce”); and Claims 33-38 were rejected under 35 U.S.C. § 103(a) as unpatentable over Scott in view of Kennedy (U.S. Patent No. 5,584,143).

Regarding the rejection of Claim 23 under 35 U.S.C. § 112, the Office Action states “[h]ow can the cross-section of the base be ‘square’ or ‘rectangular’ when claim 1 defines the base as a trapezoid?” However, it is noted that Claim 21, on which Claim 23 depends, recites that “an actual cross section of the base-piece...lies within a reference cross section of trapezoidal shape.” Thus, it is respectfully submitted that Claim 21 does not define the base as a trapezoid. Accordingly, as can be seen in the exemplary embodiment shown in Figure 5, the cross section of the base itself can be square or rectangular and lie within the reference cross section of trapezoidal shape shown by the dotted lines.

Accordingly, in view of the above discussion, it is believed that all pending claims are definite and no further rejection on that basis is anticipated. However, if the Examiner disagrees, the Examiner is invited to telephone the undersigned who will be happy to work with the Examiner in a joint effort to derive mutually acceptable language.

In response to the rejections under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a), Applicants respectfully request reconsideration of these rejections and traverse these rejections, as discussed below.

Independent Claim 20 recites, in part, a seal comprising a body with a longitudinal axis that comprises a base-piece having a first end and an opposed second end, two opposed side walls connecting the two ends, and two shoulders located on either side of each of the two side walls and at one of the ends. Additionally, the body is made of a single flexible material having a Shore A hardness of between 40 and 60. Thus, the entire body, including the base piece and the two shoulders is made of a single flexible material having a Shore A hardness of between 40 and 60. Accordingly, the seal can be easily manufactured and is flexible.<sup>1</sup> It is respectfully submitted that the cited references do not disclose or suggest every feature recited in amended Claim 20.

Scott describes a weather strip 28 that has a base portion 30 that can fit into a u-shaped channel 26.<sup>2</sup> However, as conceded on page 3 of the Office Action, Scott does not disclose or suggest that the weather strip 28 has a Shore A hardness of between 40 and 60. Instead, the Office Action relies on Royce to cure this deficiency of Scott.

Royce describes a seal 5 including retaining means in the form of a strip 13 of solid elastomeric material and a bead 17 extending the length of a longitudinal groove in the strip

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<sup>1</sup> See the original specification, for example, at page 4, lines 9-14 and at page 5, lines 1-13.

<sup>2</sup> See Scott, at page 2, column 1, lines 3-9 and in Figures 5 and 6.

5.<sup>3</sup> Further, Royce describes that the strip 13 has a Shore hardness of 70 and the bead 17 has a Shore hardness of 30 to 45.<sup>4</sup>

However, it is respectfully submitted that Scott in view of Royce does not disclose or suggest that “the body is made of a single flexible material having a Shore A hardness of between 40 and 60,” as recited in amended Claim 20.

Instead, as discussed above, Royce describes that the seal 5 includes *two* materials each having a *different* Shore hardness. Further, Royce teaches away from using a single material with a Shore hardness of less than 70 for the seal 5, stating that such a soft gasket material would still produce internal stresses within a door having the seal 5.<sup>5</sup> Thus, selecting only the material of the bead 17 described in Royce as having a Shore hardness of 30 to 45 to manufacture the weather strip 28 described in Scott would not have been an obvious design choice to a person of ordinary skill in the art as there would have been no reasonable expectation of success. Further, if the weather strip 28 described in Scott were too soft, then the weather strip 28 would not have been satisfactory for its intended purpose.

Therefore, it is respectfully submitted that amended Claim 20 patentably defines over Scott in view of Royce. Therefore, it is respectfully requested that the rejections of Claim 20 and the claims that depend thereon based on either Scott alone, or Scott in view of Royce, be withdrawn.

Claim 33 is hereby rewritten in independent form. Accordingly, Claim 33 recites, in part, a glazing panel comprising a housing and a seal. The housing comprises at least two glass panes separated by a substantially constant distance by means of a spacer. Additionally, the seal comprises a body with a longitudinal axis that comprises a base-piece having a first end and an opposed second end, two opposed side walls connecting the two ends, and two

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<sup>3</sup> See Royce, at column 2, lines 15-22 and in Figure 2.

<sup>4</sup> See Royce, at column 2, lines 15-22 and in Figure 2.

<sup>5</sup> See Royce, at column 1, lines 16-37.

shoulders located on either side of each of the two side walls and at one of the ends, wherein, in a section perpendicular to the longitudinal axis, a width of the base-piece from one of the side walls to an other of the side walls, in a vicinity of the end on an opposite side of the shoulders, is larger than a corresponding width of the base-piece in a vicinity of the end near the shoulders. Further, the seal is configured to be received in the housing and the width of the base-piece in a vicinity of the end on an opposite side from the shoulders is larger than a width of the housing from the one of the glass panes to the other of the glass panes.

In rejecting Claim 33, the Office Action on page 4 combines the weather strip described in Scott with the double pane glass assembly described in Kennedy.

However, it is respectfully submitted that Scott in view of Kennedy does not disclose or suggest that “in a section perpendicular to the longitudinal axis, a width of the base-piece from one of the side walls to an other of the side walls...in the vicinity of the end on the opposite side from the shoulders is larger than a width of the housing from the one of the glass panes to the other of the glass panes,” as recited in amended Claim 33.

Instead, the dimensions of the weather strip 28 are not described in Scott. Scott describes that the weather strip 28 is snapped into the channel 26 (which does not have a constant distance between the side walls of the channel 26) and thus is firmly held within the channel 26 because the dove tail shape is wider than an opening of the channel 26.

Accordingly, Scott does not describe, that the width of the dove tail part of the weather strip 28 is wider than the channel 26 at the rear of the channel 26 where the dove tail part is.

Further, regarding the seal gasket assembly 20 positioned between the panes 12, 14 described in Kennedy, as the seal portion of the assembly 20 is either integral with or sealed to the spacer 40, 60, the seal described in Kennedy is not wider than the distance between the panes 12, 14.

Therefore, the combination of Scott in view of Kennedy does not disclose or suggest every feature recited in amended Claim 33. Thus, it is respectfully requested that the rejection of Claim 33, and all claims dependent thereon, be withdrawn.

New Claims 39 and 40 are added by the present amendment. Support for new Claims 39 and 40 can be found in the original specification, for example, at page 8, lines 13-17, at page 15, line 23-30, in Figure 10, and in original Claim 31. Thus, it is respectfully submitted that no new matter is added. Additionally, it is respectfully submitted that new Claims 39 and 40 are directed to the elected species.

Further, it is noted that new Claims 39 and 40 depend on Claim 33 and thus are believed to be patentable for at least the reasons discussed above with respect to Claim 33.

Additionally, new Claim 39 recites, in part, that "the seal is made of a single flexible material having a Shore A hardness of between 40 and 60." Accordingly, in view of the above discussion of the cited references, Applicants respectfully submit that Claim 39, and Claim 40 which recites similar features, further patentably define over the cited references.

Consequently, in view of the present amendment, no further issues are believed to be outstanding and the present application is believed to be in condition for formal allowance. A Notice of Allowance is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



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Gregory J. Maier  
Attorney of Record  
Registration No. 25,599

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 08/07)

Colin B. Harris  
Registration No. 58,969